

Filed for intro on 01/22/98  
HOUSE BILL 2502 By  
DeBerry L

SENATE BILL 2840  
By Ford J

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 63,  
relative to midwives.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, is amended by adding Section 2  
through 17 as a new chapter to be appropriately designated.

SECTION 2. The general assembly recognizes the need for a person to have the  
freedom to choose the manner, cost, and setting for giving birth. The general assembly finds  
that access to prenatal care and delivery services is limited by the inadequate number of  
providers of such services and that the practice of midwifery may help to reduce this shortage.  
The general assembly also recognizes the need for the safe and effective delivery of newborn  
babies and the health, safety, and welfare of their mothers in the delivery process. The general  
assembly, in interest of public health, promotes the regulation of the practice of midwifery in this  
state for the purpose of protecting the health and welfare of mothers and infants. The general  
assembly recognizes that midwifery is a profession in its own right and that it is not the practice  
of medicine.

SECTION 3. As used in this act, unless the context requires otherwise:

(1) "Antepartal" means occurring during pregnancy.

\*40000001\*

40000001

\*010429\*

\*01042957\*

(2) “Certified Nurse Midwife (CNM)” means a person who is educated in the two disciplines of nursing and midwifery and certified by the American College of Nurse Midwives and who is currently licensed as a registered nurse under Title 63, Chapter 7.

(3) “Consultation” means exchange of information and advice regarding the client condition and indicated treatment with a physician.

(4) “Council” means the council of licensed midwifery.

(5) “Certified Professional Midwife(CPM)” means a person who is educated in midwifery, who has obtained National Certification from the North American Registry of Midwives.

(6) “Department” means the department of health.

(7) “Intrapartal” means occurring during the process of giving birth.

(8) “LM” means licensed midwife in Tennessee.

(9) “Midwife” means a person who is trained to give the necessary care and advice to women during pregnancy, labor, and the post-birth period, to conduct normal deliveries on her own responsibility and to care for the newly born infant. A midwife may also provide well-woman care. A midwife is able to recognize the warning signs of abnormal conditions requiring referral to and/or collaboration with a doctor, and to carry out emergency measures when no medical help is available.

(10) “Midwifery” means the practice of attending low risk women during pregnancy, labor and the post-birth period with the informed consent of the mother. The scope of midwifery may include well-woman care and shall include comprehensive care of the pregnant woman during the antepartal phase, intrapartal phase, and postpartal phase, care of the newborn, and application of emergency care when necessary.

(11) “NARM” means The North American Registry of Midwives.

(12) “Peer Review” means a process utilized by the Tennessee Midwives Association to ensure professional accountability.

(13) "Physician" means a person who is duly licensed in the State of Tennessee to practice medicine by the state board of medical examiners or to practice osteopathy by the state board of osteopathic examiners.

(14) "Postpartal" means occurring subsequent to birth.

SECTION 4. (a) There is hereby established a council of licensed midwifery.

The council members shall be appointed by the commissioner of health. The council shall consist of seven (7) members.

(b) Members shall be residents of Tennessee.

(c) Members shall consist of three (3) licensed midwives, one (1) consumer, one (1) certified nurse midwife, one (1) obstetrician, and one (1) pediatrician.

(d) Members of the council shall serve without pay. Members shall be entitled to reimbursement for per diem and travel expenses.

SECTION 5. The terms of office of the members of the council shall be staggered four (4) year terms. In making the initial appointments the commissioner shall appoint three (3) members to four (4) year terms, two (2) members to three (3) year terms, and two (2) members to two (2) year terms. All subsequent terms shall be for a period of four (4) years. No member shall be appointed for more than two (2) consecutive terms.

SECTION 6. When a council member is absent from three (3) consecutive meetings without excuse that member shall be removed from office and a new member shall be appointed by the commissioner of health. An excused absence shall be deemed excused if caused by a health problem or condition verified in writing by a physician, or by an accident or similar unforeseeable tragedy or event prior to or at the time of the next council meeting.

SECTION 7.

(1) The council members shall select annually from their membership a chairperson and vice chairperson.

(2) A quorum shall consist of two-thirds (2/3) of the members.

(3) No final action shall be taken on any matter without a quorum and majority vote of the members present.

(4) The council shall meet at least every six (6) months.

(5) Emergency meetings may be called by the chairperson with written notice to all members.

(6) Public notice shall be given for all meetings.

(7) All meetings are open to the public.

(8) All records are available to the public. Persons wishing to obtain copies of such records may request the same in writing from the council.

#### SECTION 8.

(a) The council shall:

(1) Make rules and changes to those rules according to the Midwives Alliance of North America's Core Competencies and not inconsistent with the law. The rules shall include but not be limited to, the allowable scope of midwifery practice regarding use of equipment, procedures, and medication.

(2) Make recommendations to the department regarding:

(A) Licensed Midwifery;

(B) Applications and renewals;

(C) Development of forms for reporting and receiving licensed midwifery forms as set forth herein;

(D) Up-to-date files on all active LMs in Tennessee including emergency plan guidelines; and

(E) Compilation of annual statistics on LM deliveries.

(3) Act as a forum to hear results of peer review from the Tennessee Midwives Association.

(4) Give final approval for recommendations from the Tennessee Midwives Association.

(5) The council shall educate the public and other providers of obstetrical care about the role of the LM.

(b) The council may:

(1) Review charts upon giving written notice to the LM.

(2) Require that an LM be provided peer review by the Tennessee Midwives Association when it finds appropriate as the result of chart review or practice outcome.

SECTION 9. (a) A midwife who meets the standards set forth in this section may apply for licensure. Except for certified nurse midwives, a license under this act is required to practice midwifery. A license under this act is not required for certified nurse midwives who maintain their certification pursuant to Tennessee Code Annotated, Title 63, Chapter 7.

(b) In order to receive licensure as a licensed midwife (LM), an applicant shall:

(1) Obtain certification from NARM and currently hold the title of certified professional midwife (CPM);

(2) Read, understand, and agree to practice under the guidelines set forth in this act and any rules promulgated pursuant to this act; and

(3) Have proof of current CPR certification.

SECTION 10.

(1) A midwife who is licensed under this standard may use the initials LM.

(2) Initial license is available for a three (3) year period.

(3) License is renewable every two (2) years after the initial three (3) year period.

(4) Renewal is available to the certified professional midwife (CPM) who maintains current certification from NARM by complying with the continuing education requirement applicable to the certified professional midwife (CPM).

(5) Renewal is available to the certified professional midwife (CPM) who has current CPR certification.

(6) The department may deny an application only if the applicant is not in compliance with the standards herein.

(7) An LM is entitled to receive payment through TennCare for all recipients that are eligible.

(8) An LM is entitled to receive third party payment from all private agencies that provide coverage for maternity, obstetrical, and gynecological care.

SECTION 11. Any licensed midwife who is not practicing midwifery in Tennessee may be placed in inactive status by requesting such status in writing and submitting it to the council. Active status may be renewable by requesting a change of status from inactive to active in writing to the council and by fulfilling the requirements for renewal set forth herein.

SECTION 12. Any licensed midwife who does not seek inactive status and allows the license to expire after a sixty (60) day grace period must apply for a new license as prescribed herein.

#### SECTION 13.

(1) The application fee is to be set by the commissioner of health and shall not be less than that sum necessary to permit the council to recover its costs of operation.

(2) The renewal fee is to be set by the commissioner of health and shall not be less than that sum necessary to permit the council to recover its costs of operation.

SECTION 14. The license shall be displayed at all times in a conspicuous place where the midwife is practicing, when applicable.

#### SECTION 15.

(1) An LM who does not follow the standards set forth herein is subject to possible suspension or revocation of license only after and as determined by peer

review with the Tennessee Midwives Association and recommendations from the same organization to the council.

(2) Peer review guidelines are established by the Tennessee Midwives Association.

(3) After the Tennessee Midwives Association has completed a peer review session for an LM, the same organization must submit its results and recommendations regarding disciplinary action to the council for final approval.

(4) If the council disagrees with the findings of the Tennessee Midwives Association, peer review must be repeated by the Tennessee Midwives Association in the presence of the council. Specific questions and topics must be submitted to the Tennessee Midwives Association from the council prior to the second peer review. The results of this peer review must be determined by the two (2) groups together.

(5) The council shall implement disciplinary action if deemed necessary by the Tennessee Midwives Association and final approval of the council as the result of peer review.

(6) The suspension of an LM's license shall be for a period of not less than six (6) months and not longer than one (1) year.

(7) If the council decides to consider the suspension or revocation of a license, the same organization shall notify the licensed midwife in writing of the reasons for such consideration. The notice shall set forth the time, place, and date of the meeting at which the council shall take action. Such meeting shall not be set less than twenty (20) days from the mailing of the notice.

(8) Should the licensed midwife desire a hearing by the council, he or she shall notify the chairperson of the council in writing within fifteen (15) days after receipt of notice. The council shall then set a hearing no less than fifteen (15) and no more than forty-five (45) days and notify the licensed midwife of the time, date, and place of set

hearing. Within fifteen (15) days after the hearing the commission shall notify the licensed midwife in writing of findings and grounds for the decision. Said decision shall take effect immediately upon being reduced to writing and signed by the chairperson of the council.

(9) All notification required by this section shall be in writing and shall be sent by certified, return receipt requested mail or by personal delivery.

(10) The following procedure shall govern the conduct of appeals hearings before the council:

(A) The appellant shall have the right, but not be required to be represented by counsel.

(B) The council shall arrange for a notary public or other officer empowered to administer oaths to be in attendance at every hearing, and all evidence offered shall be under oath.

(C) All proceedings of all hearings before the council shall be recorded.

(D) A license may be suspended only with completed peer review process.

(E) A license may be revoked by the council for any of the following:

(1) After completed peer review process and two (2) suspensions within a period of one (1) year; or

(2) Intentional falsification of records.

## SECTION 16.

(1) The LM may provide care for the low risk client who is expected to have a normal pregnancy, labor, birth and postpartal phase in the setting of her choice. The LM may form a collaborative care plan with a physician for the client who falls out of the definition of low risk.

(2) The LM shall ensure the client has signed an informed consent form.

(3) The LM may prescribe:

(A) and administer prophylactic ophthalmic medication, oxygen, intravenous fluids, postpartum oxytocic agents, vitamin K, rhogam-immune globulin and local anesthetic; and

(B) routine antepartal laboratory analysis.

(4) The LM shall develop an emergency plan that shall be signed by the client and placed in the client chart.

(5) The LM shall determine the progress of labor and, when birth is imminent, shall be available until delivery is accomplished.

(6) The LM shall remain with the postpartal mother during the postpartal period until the conditions of the mother and newborn are stabilized.

(7) The LM shall instruct the parents regarding the requirements of Section 68-5-202 .

(8) The LM shall instruct the parents regarding the requirements of Section 68-5-401.

(9) The LM shall maintain a birth certificate for each birth in accordance with the requirements of Title 68. A copy of the birth certificate shall be filed with the department of health.

(10) The LM shall practice in compliance with the rules and regulations promulgated by the council.

SECTION 17. The council is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 18. Tennessee Code Annotated, Section 4-29-221(a), is amended by adding the following as a new item to be appropriately designated:

( ) council of licensed midwifery, created by Section 4 of this act;

SECTION 19. This act shall take effect July 1, 1998, the public welfare requiring it.